

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1346

AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 3-5-2-31.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 31.5. "Member of the military or public safety officer" has the meaning set forth in IC 10-14-2-5.**

SECTION 2. IC 3-6-4.2-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. (a) Each year in which a general or municipal election is held, the election division shall call a meeting of all the members of the county election boards and the boards of registration to instruct them as to their duties under this title and federal law (including HAVA and NVRA). The election division may, but is not required to, call a meeting under this section during a year in which a general or a municipal election is not held.

(b) Each circuit court clerk shall attend a meeting called by the election division under this section.

(c) The codirectors of the election division shall set the time and place of the instructional meeting. In years in which a primary election is held, the election division:

(1) may conduct the meeting before the first day of the year; and

(2) shall conduct the meeting before primary election day.

The instructional meeting may not last for more than two (2) days.

(d) Each member of a county election board or board of registration and an individual who has been elected or selected to serve as circuit

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court clerk but has not yet begun serving in that office is entitled to receive all of the following **from the county general fund without appropriation:**

- (1) A per diem of twenty-four dollars (\$24) for attending the instructional meeting called by the election division under this section.
- (2) A mileage allowance at the state rate for the distance necessarily traveled in going and returning from the place of the instructional meeting called by the election division under this section.
- (3) Reimbursement for the payment of the instructional meeting registration fee. ~~from the county general fund without appropriation.~~
- (4) An allowance for lodging for each night preceding conference attendance equal to the lodging allowance provided to state employees in travel status.

SECTION 3. IC 3-7-26.7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 26.7. Online Voter Registration

Sec. 1. This chapter applies to an individual who:

- (1) is eligible to register to vote under IC 3-7-13; and
- (2) possesses a current and valid:
 - (A) Indiana driver's license issued under IC 9-24; or
 - (B) Indiana identification card for nondrivers issued under IC 9-24-16.

Sec. 2. As used in this chapter, "applicant" means an individual who submits an application as provided in this chapter.

Sec. 3. As used in this chapter, "bureau" refers to the bureau of motor vehicles created by IC 9-14-1-1.

Sec. 4. After June 30, 2010, an individual described in section 1 of this chapter may submit a voter registration application to a county voter registration office using the procedures set forth in this chapter.

Sec. 5. (a) The secretary of state, with the consent of the co-directors of the election division, shall establish a secure Internet web site to permit individuals described in section 1 of this chapter to submit applications under this chapter.

(b) The secure web site established under subsection (a) must allow an individual described in section 1 of this chapter to submit:

- (1) an application:
 - (A) for registration as a first time voter in Indiana; or

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(B) to change the individual's name, address, or other information set forth in the individual's existing voter registration record; and

(2) information to establish that the applicant is eligible under section 1 of this chapter to register online.

Sec. 6. (a) When an applicant submits an application described in section 5(b)(1) of this chapter by use of the secure Internet web site established under this chapter, the bureau shall compare the information submitted by the applicant with the information maintained in the bureau's data base listing individuals who possess a current and valid Indiana:

(1) driver's license; or

(2) identification card for nondrivers.

(b) If the bureau confirms that the applicant possesses a current and valid:

(1) Indiana driver's license issued under IC 9-24; or

(2) Indiana identification card for nondrivers issued under IC 9-24-16;

the completed application and information compiled by the bureau (including the digital signature of the applicant) shall be submitted to the county voter registration office in the county in which the applicant currently resides using the computerized statewide voter registration list maintained under IC 3-7-26.3.

(c) If the bureau is unable to confirm that the applicant possesses a current and valid:

(1) Indiana driver's license issued under IC 9-24; or

(2) Indiana identification card for nondrivers issued under IC 9-24-16;

the bureau shall send the application submitted by the applicant and information indicating that the bureau cannot confirm that the applicant possesses a current and valid Indiana driver's license or identification card to the county voter registration office in the county shown on the application. The county voter registration office shall send a notice to the applicant that the applicant's application cannot be processed because the bureau cannot confirm that the applicant possesses a current and valid Indiana driver's license or identification card. The county voter registration office shall send the notice to the applicant at the electronic address from which the applicant submitted the application and at the mailing address provided in the application.

Sec. 7. Except as otherwise provided in this chapter, the county voter registration office shall process the application under IC 3-7.

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SECTION 4. IC 3-7-32-2, AS AMENDED BY P.L.164-2006, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. A registration application must be signed:

- (1) in indelible ink or indelible pencil; or
- (2) with an electronic signature in a manner authorized under:
 - (A) IC 3-7-26.3 if submitted to a license branch under IC 3-7-14; or
 - (B) **IC 3-7-26.7 (online voter registration).**

SECTION 5. IC 3-7-33-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3.5. (a) **This section applies to a voter registration application submitted online in accordance with IC 3-7-26.7.**

(b) **An eligible applicant who submits a complete application online in accordance with IC 3-7-26.7 not later than midnight on the twenty-ninth day before the election shall be registered to vote in the election.**

SECTION 6. IC 3-11-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) Applications may be made on **application forms approved by the commission by any of the following means:**

- (1) In person.
- (2) By fax transmission. or
- (3) By mail.

on application forms furnished by the county election board or approved by the commission:

(4) By electronic mail with a scanned image of the application and signature of the applicant, if transmitted by an overseas voter acting under section 6 of this chapter.

(b) Application forms shall:

(1) be furnished to ~~all~~ a central committees in **committee** of the county ~~no later than~~

(A) ~~June 15~~, for a general election or a special election ordered under IC 3-12-8-17 or IC 3-12-11-18 following the primary election; or

(B) ~~January 15~~, for a primary election or a special election ordered under IC 3-12-8-17 or IC 3-12-11-18 following the general election;

at the request of the central committee;

(2) be:

- (A) mailed; or
- (B) transmitted by fax; or
- (C) **transmitted by electronic mail with a scanned image of**

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the application;

upon request, to a voter applying by mail, by telephone, by **electronic mail**, or by fax; and

(3) be delivered to a voter in person who applies at the circuit court clerk's office.

(c) The county election board shall:

(1) accept; and

(2) transmit;

applications for absentee ballots under subsection (a) by fax **or electronic mail, if the county election board has access to a fax machine or electronic mail.** A county election board shall accept an application for an absentee ballot transmitted by fax even though the application is delivered to the county election board by a person other than the person submitting the application.

(d) When an application is received under subsection (a)(4), the circuit court clerk's office (or, in a county subject to IC 3-6-5.2 or IC 3-6-5.4, the office of the board of elections and registration) shall send an automatic electronic mail receipt acknowledging receipt of the voter's application.

SECTION 7. IC 3-11-8-25.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 25.7. (a) This section applies only to a voter who is a member of the military or public safety officer.**

(b) Notwithstanding section 25.5 of this chapter, if a voter signs the voter's name and either:

(1) writes the voter's address; or

(2) checks the "Address Unchanged" box;

on the poll list under section 25.1 of this chapter and then leaves the polls without casting a ballot or after casting a provisional ballot, the voter may reenter the polls to cast a ballot at the election as provided in this section.

(c) A voter who leaves the polls to respond to an emergency in the voter's capacity as a member of the military or public safety officer must notify a precinct election officer that the voter is leaving the polls to respond to an emergency in the voter's capacity as a member of the military or public safety officer.

(d) A poll clerk or assistant poll clerk shall make a notation on the poll list with the voter's name indicating that the voter has left the polls as permitted by this section and the time the voter left the polls.

(e) If the voter returns to the polls, the voter shall be permitted to vote if the voter executes an affidavit stating all of the following:

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- (1) The name of the voter.**
- (2) That the voter is a member of the military or public safety officer.**
- (3) The military or public safety position the voter holds.**
- (4) That after the voter signed the poll list, but before the voter voted, the voter was called to respond to an emergency in the voter's capacity as a member of the military or public safety officer.**
- (5) A brief description of the emergency to which the voter responded.**
- (6) The time at which the voter returned to the polls.**

(f) The commission shall prescribe the form of the affidavit required by this section.

SECTION 8. IC 3-11-10-24, AS AMENDED BY P.L.103-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 24. (a) Except as provided in subsection (b), a voter who satisfies any of the following is entitled to vote by mail:

- (1) The voter has a specific, reasonable expectation of being absent from the county on election day during the entire twelve (12) hours that the polls are open.
- (2) The voter will be absent from the precinct of the voter's residence on election day because of service as:
 - (A) a precinct election officer under IC 3-6-6;
 - (B) a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10;
 - (C) a challenger or pollbook holder under IC 3-6-7; or
 - (D) a person employed by an election board to administer the election for which the absentee ballot is requested.
- (3) The voter will be confined on election day to the voter's residence, to a health care facility, or to a hospital because of an illness or injury during the entire twelve (12) hours that the polls are open.
- (4) The voter is a voter with disabilities.
- (5) The voter is an elderly voter.
- (6) The voter is prevented from voting due to the voter's care of an individual confined to a private residence because of illness or injury during the entire twelve (12) hours that the polls are open.
- (7) The voter is scheduled to work at the person's regular place of employment during the entire twelve (12) hours that the polls are open.
- (8) The voter is eligible to vote under IC 3-10-11 or IC 3-10-12.
- (9) The voter is prevented from voting due to observance of a religious discipline or religious holiday during the entire twelve

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(12) hours that the polls are open.

(10) The voter is an address confidentiality program participant (as defined in IC 5-26.5-1-6).

(11) The voter is a member of the military or public safety officer.

(b) A voter with disabilities who:

(1) is unable to make a voting mark on the ballot or sign the absentee ballot secrecy envelope; and

(2) requests that the absentee ballot be delivered to an address within Indiana;

must vote before an absentee voter board under section 25(b) of this chapter.

(c) If a voter receives an absentee ballot by mail, the voter shall personally mark the ballot in secret and seal the marked ballot inside the envelope provided by the county election board for that purpose.

The voter shall:

(1) deposit the sealed envelope in the United States mail for delivery to the county election board; or

(2) authorize a member of the voter's household or the individual designated as the voter's attorney in fact to:

(A) deposit the sealed envelope in the United States mail; or

(B) deliver the sealed envelope in person to the county election board.

(d) If a member of the voter's household or the voter's attorney in fact delivers the sealed envelope containing a voter's absentee ballot to the county election board, the individual delivering the ballot shall complete an affidavit in a form prescribed by the commission. The affidavit must contain the following information:

(1) The name and residence address of the voter whose absentee ballot is being delivered.

(2) A statement of the full name, residence and mailing address, and daytime and evening telephone numbers (if any) of the individual delivering the absentee ballot.

(3) A statement indicating whether the individual delivering the absentee ballot is a member of the voter's household or is the attorney in fact for the voter. If the individual is the attorney in fact for the voter, the individual must attach a copy of the power of attorney for the voter, unless a copy of this document has already been filed with the county election board.

(4) The date and location at which the absentee ballot was delivered by the voter to the individual delivering the ballot to the county election board.

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(5) A statement that the individual delivering the absentee ballot has complied with Indiana laws governing absentee ballots.

(6) A statement that the individual delivering the absentee ballot is executing the affidavit under the penalties of perjury.

(7) A statement setting forth the penalties for perjury.

(e) The county election board shall record the date and time that the affidavit under subsection (d) was filed with the board.

(f) After a voter has mailed or delivered an absentee ballot to the office of the circuit court clerk, the voter may not recast a ballot, except as provided in:

(1) section 1.5 of this chapter; or

(2) section 33 of this chapter.

SECTION 9. IC 3-11-15-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. Each application for certification of a voting system shall be accompanied by a fee of one thousand five hundred dollars (\$1,500). **All fees collected under this section shall be deposited with the treasurer of state in the voting system technical oversight program account established by IC 3-11-17-6.**

SECTION 10. IC 3-11-15-13.3, AS AMENDED BY P.L.164-2006, SECTION 118, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13.3. (a) To be approved by the commission for use in Indiana, a voting system must meet:

(1) the Voting System Standards adopted by the Federal Election Commission on April 30, 2002; or

(2) the Voluntary Voting System Guidelines adopted by the United States Election Assistance Commission on December 13, 2005.

(b) A county may continue to use an optical scan ballot card voting system or an electronic voting system whose approval or certification expired on or before October 1, ~~2005~~; **2009**, if the voting system:

(1) was:

(A) approved by the commission for use in elections in Indiana before October 1, ~~2005~~; **2009**; and

(B) purchased by the county before October 1, ~~2005~~; **2009**; and

(2) otherwise complies with the applicable provisions of HAVA and this article.

However, a voting system vendor may not market, sell, lease, or install a voting system described in this subsection.

(c) As provided by 42 U.S.C. 15481, to be used in an election in Indiana, a voting system must be accessible for individuals with

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disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters.

(d) As provided by 42 U.S.C. 15481, an election board conducting an election satisfies the requirements of subsection (c) if the election board provides at least one (1) electronic voting system or other voting system equipped for individuals with disabilities at each polling place.

(e) If a voter who is otherwise qualified to cast a ballot in a precinct chooses to cast the voter's ballot on the voting system provided under subsection (d), the voter must be allowed to cast the voter's ballot on that voting system, whether or not the voter is an individual with disabilities.

SECTION 11. IC 3-11-17-6, AS AMENDED BY P.L.3-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) The voting system technical oversight program account is established with the state general fund to provide money for administering and enforcing IC 3-11-7, IC 3-11-7.5, IC 3-11-15, IC 3-11-16, and this chapter.

(b) The election division shall administer the account. With the approval of the budget agency, funds in the account are available to augment and supplement the funds appropriated to the election division for the purposes described in this section.

(c) The expenses of administering the account shall be paid from the money in the account.

(d) The account consists of the following:

(1) All civil penalties collected under this chapter.

(2) Fees collected under IC 3-11-15-4.

(3) Contributions to the account made in accordance with a settlement agreement executed with a voting system vendor.

(e) Money in the account at the end of a state fiscal year does not revert to the state general fund.

SECTION 12. IC 9-24-2.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. This chapter prescribes the procedures to be followed by the commission in processing voter registration applications under 42 U.S.C. 1973gg-3, ~~and~~ IC 3-7-14, **and IC 3-7-26.7.**

SECTION 13. IC 9-24-2.5-4, AS AMENDED BY P.L.164-2006, SECTION 137, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) As required under 42 U.S.C. 1973gg-3(e)(1), the manager or designated license branch employee shall transmit a copy of the completed voter registration portion of each

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application for a driver's license or an identification card for nondrivers issued under this article to the county voter registration office of the county in which the individual's residential address (as indicated on the application) is located.

(b) The voter registration application shall be transmitted to the county voter registration office in an electronic format and on an expedited basis (as defined by IC 3-5-2-23.2) using the computerized list established under IC 3-7-26.3. **Except in the case of applications submitted online under IC 3-7-26.7**, the paper copy of the application shall be transmitted under subsection (a) to the county voter registration office not later than five (5) days after the application is accepted at the license branch.

SECTION 14. **An emergency is declared for this act.**

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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